

CORRECTED OPINION  
SIGNATURE  
CONDITION NO. 5

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600

**Case No. S-2540**

**PETITION OF SPRINT PCS/APC REALTY  
AND EQUIPMENT COMPANY, LLC AND  
GOSHEN UNITED METHODIST CHURCH**

(Hearing Date: November 8, 2002)  
(Effective Date of Opinion: February 21, 2003)

Case No. S-2540 is an application for a special exception pursuant to Section 59-G-2.43 ((Public Utility Buildings, Public Utility Structures and Telecommunication Facilities) of the Zoning Ordinance to permit construction and operation of a telecommunications facility consisting of a 120-foot flagpole, with three (3) panel antennas inside the flagpole and six (6) 3 foot x 3 foot x 6 foot equipment cabinets within a 50 foot x 50 foot compound. The petitioner proposes to screen the facility with an 8-foot fence.

Pursuant to the authority in Section 59-A-4.125 of the Montgomery County Code, the Board of Appeals referred the case to the Hearing Examiner for Montgomery County to conduct a public hearing on the application. The Hearing Examiner convened a public hearing on November 8, 2002. The record in the case closed on December 15, 2002, and on January 14, 2003 the Hearing Examiner issued a written Report and Recommendation for approval of the special exception.

Decision of the Board: Special Exception **granted** subject to conditions enumerated below.

The subject property is Parcels 837, 865, 888 and 890, located at 7700 Brink Road, Gaithersburg, Maryland, in the R-200 Zone.

At its Worksession on February 5, 2003, the Board of Appeals voted to adopt the Hearing Examiner's Report and Recommendation and grant the special exception subject to the following conditions:

1. Petitioner shall be bound by its testimony and exhibits of record, the testimony of its witnesses and representations of its attorney, to the extent that

such evidence and representations are identified in the Hearing Examiner's Report and Recommendation and in the opinion of the Board.

2. The monopole must be removed at the cost of the Petitioner when it is no longer used by a telecommunications carrier to provide service.

3. Approval of a Tree Protection Plan by Environmental Planning staff prior to release of sediment and erosion control or building permit, as appropriate. An MNCPPC inspector must be contacted for pre-construction inspection of tree protection measures and authorization to begin any tree clearing.

4. The flagpole must be used in accordance with approved United States regulations governing the flying of the United States flag.

5. In order to comply with United States regulations governing the flying of the United States flag, illumination of the flagpole shall be **accomplished with two 175-watt, ground-mounted spotlights**.

6. Upon an assertion of objectionable glare from the illumination of the flagpole, the Board may convene a hearing to address possible detrimental effects of this non-inherent characteristic.

On a motion by Angelo M. Caputo, seconded by Allison Ishihara Fultz, with Donna L. Barron, Louise L. Mayer and Donald H. Spence, Jr., Chairman in agreement, the Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 21<sup>st</sup> day of February, 2003.

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Katherine Freeman  
Executive Secretary to the Board

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.